

REMARKS

Reconsideration is requested.

A Notice of Appeal has been filed Monday, February 23, 2009, to maintain pendency.

Entry of the present Amendment and allowance of the amended claims are requested.

Claims 1-35 and 37-40 are pending. Claims 31-35 and 37 have been withdrawn from consideration. Claim 37 has been canceled above, without prejudice. Claims 13, 17, 21, 25, 31, 32, 34 and 40 have been rewritten in independent form. Claims 1-35 and 38-40 will be pending upon entry of the present Amendment. Rejoinder and allowance of the withdrawn claims with the remaining claims are requested. The claims have been revised, without prejudice, to advance prosecution. No new matter has been added.

The Examiner's indication that claims 3, 7, 17-20, 25-30, 38 and 39 contain allowable subject matter is acknowledged, with appreciation. See page 5 of the Office Action dated August 22, 2008.

Claim 40 has been revised to obviate the objection to the same. Entry of the present Amendment and withdrawal of the objection are requested.

The Section 112, first paragraph "enablement", rejection of claims 13-16 and 21-24 is obviated by the above amendments. The Examiner's comment that the specification is "enabling for detecting the presence of HBV in a sample by detecting

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Amendment After Final Rejection
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polynucleic acid comprising the reverse transcriptase domain with a mutation at codon 204, wherein codon 204 is a serine" is acknowledged with appreciation. See page 2 of the Office Action dated August 22, 2008. The claims are believed to have been amended in a manner indicated by the Examiner to be supported by an enabling disclosure. Entry of the present Amendment and withdrawal of the Section 112, first paragraph, rejection are requested.

The Section 102 rejection of claims 1, 2, 4-6 and 8-12 over Petzold (GenBank Accession No. AJ131956), is obviated by the above amendments. Entry of the present Amendment and withdrawal of the rejection are requested. The products of the claimed invention are not found in the cited art. Withdrawal of the Section 102 rejection is requested.

The claims are submitted to be in condition for allowance and a Notice to that effect is requested. The Examiner is requested to contact the undersigned, preferably by telephone, in the event anything further is required.

Respectfully submitted,

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